

Case 7:05-cv-00740-JPJ-mfu Document 2 Filed 12/07/05 Page 1 of 2 Pageid#: 15

the United States Court of Appeals for the Fourth Circuit has appointed trial counsel to represent Scott for the appeal.

The well established general rule is that, absent extraordinary circumstances, the district court should not consider § 2255 motions while a direct appeal is pending. *Bowen v. Johnston*, 306 U.S. 19, 26-27 (1939); *United States v. Taylor*, 648 F.2d 565, 572 (9th Cir. 1981); *United States v. Gordon*, 634 F.2d 639 (1st Cir.1980); *United States v. Davis*, 604 F.2d 474, 484 (7th Cir.1979). Scott's § 2255 Motion fails to present extraordinary circumstances compelling this court to address his Motion during the pendency of his direct appeal.

For these reasons, I will dismiss the § 2255 Motion without prejudice as premature.

A separate Final Order will be entered herewith.

ENTER: December 7, 2005.

/s/ James P. Jones
Chief United States District Judge